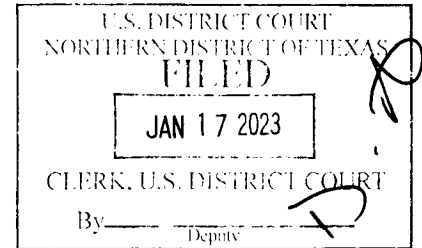


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

PLANNED PARENTHOOD FEDERATION  
OF AMERICA, INC., *et al.*,

Defendants.

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2:21-CV-022-Z

**ORDER**

In *United States ex rel. Proctor v. Safeway, Inc.*, the Seventh Circuit held that a False Claims Act (“FCA”) defendant “does not act with reckless disregard as long as its interpretation of the relevant statute or regulation was objectively reasonable and no authoritative guidance warned the defendant away from that interpretation.” 30 F.4th 649, 652–53 (7th Cir. 2022), *cert. granted sub nom. U.S. ex rel. Proctor v. Safeway, Inc.*, No. 22-111, 2023 WL 178393 (U.S. Jan. 13, 2023). The Seventh Circuit purportedly “joined every other circuit to address the issue.” *Id.* at 657 (collecting cases).

This question is now before the Supreme Court. Specifically, the question presented: “Whether and when a defendant’s contemporaneous subjective understanding or beliefs about the lawfulness of its conduct are relevant to whether it ‘knowingly’ violated the False Claims Act.” *Safeway*, No. 22-111, 2023 WL 178393 (U.S. Jan. 13, 2023). Accordingly, the Court **ORDERS** Plaintiffs to submit a brief — no longer than ten pages — on the applicability of *Safeway* to the facts of this case. Specifically, Plaintiffs should advise the Court whether: (1) Defendants are still liable under the FCA, assuming *arguendo* the *Safeway* holding is affirmed by the Supreme Court; and (2) any Fifth Circuit precedent counsels against applying the *Safeway* precedent to this case.

Plaintiffs must respond **on or before January 24, 2023.**

**SO ORDERED.**

January 17, 2023

A handwritten signature in black ink, appearing to read "Matthew J. Kacsmark", written over a horizontal line.

MATTHEW J. KACSMARK  
UNITED STATES DISTRICT JUDGE